



Secretary Lester Snow
Director of Natural Resources
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Karen Scarborough
Undersecretary
Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

February 10, 2010

Dear Lester and Karen:

The federal court's Temporary Restraining Order (TRO) halting safety net protections for endangered salmon has important implications for the Bay Delta Conservation Plan process (BDCP), and spotlights the State's conflicted role with regard to ecosystem protection in the Bay-Delta. We write to request your assurance that the State will fully implement the requirements of the California Endangered Species Act (CESA) with regard to salmon and Delta smelt protections.

As you are aware, for over three years our organizations have committed significant resources to the BDCP. The foundation of that process is the joint commitment by all participants to the long-term recovery of the Delta ecosystem and the species that rely on that ecosystem. The Biological Opinions for Delta smelt and salmon are the only real defense today against the prospect of looming ecosystem collapse. Those protections are crucial until both the BDCP and the Delta Plan can be finalized and implemented. Dismantling or compromising those Biological Opinions are likely to do irreparable harm to those species already at high risk of extinction and compromise the ultimate success of the BDCP and the Delta Plan.

For these reasons, our organizations are dismayed by ongoing efforts in the courts, legislature and elsewhere to undermine the basic protections afforded to salmon and Delta smelt under the Endangered Species Act (ESA), and in particular the State's expanding role in those efforts. We have previously indicated that we believe the litigation strategy being pursued by Westlands, MWD, and other BDCP participants to weaken ESA protections is counter-productive. The State's decision to challenge even basic safety net requirements for the Delta ecosystem calls into question the Department of Water Resources' commitment to protecting the public trust resources of the State, its commitment to the California Endangered Species Act, and its commitment to the stated recovery objectives of the BDCP itself.

We appreciate that the Court's Restraining Order is for a limited period of time. However, the Court made clear that further restrictions on endangered salmon and Delta smelt protections could, and likely would, be available. Without basic ESA protections in place for the near-term, it is not clear that a Habitat Conservation Plan, or a Natural Community Conservation Plan, would have a sufficient foundation on which to build a long-term solution, and our organizations will need to carefully reassess our role in such a process. We agree that a long-term solution is the best option for meeting California's water management needs in the 21st century. That lasting solution depends on near-term protections as much as it depends on long-term planning.

We request the opportunity to meet with you to discuss these issues at your earliest convenience. Thank you for your consideration of our views on these critical issues.

Sincerely,



Gary Bobker
The Bay Institute



Kim Delfino
Defenders of Wildlife



Ann Hayden
Environmental Defense Fund

cc: Secretary Ken Salazar
Deputy Secretary David Hayes
Nancy Sutley, Chair of the Council on Environmental Quality
Susan Kennedy, Office of Governor Arnold Schwarzenegger
David Nawi, Senior Advisor